

REMARKS

In the May 5, 2011 Office Action, claims 1-4 and 21-23 stand rejected in view of prior art. Claims 1-4 and 6-23 were rejected as being indefinite for failing particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Claims 8-20 were previously indicated as containing allowable subject matter by the Examiner via telephone on December 16, 2010. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the May 5, 2011 Office Action, Applicants have amended claims 2-4, 6-20 and 23, and canceled claims 1, 21 and 22, as indicated above. Thus, claims 2-4, 6-20 and 23 are pending, with claims 1 and 6-20 being independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Claim Rejections - 35 U.S.C. §112

On page 2 of the Office Action, claims 1-4 and 6-23 were rejected under 35 U.S.C. §112, first paragraph. Specifically, the Office Action alleges that the claims are vague and incomplete. In response, Applicants have amended claims 2-4, 6-20 and 23 to clarify the claims and cancelled claims 1, 21 and 22.

Support for the amendments to independent claims 6-20 can be found in original claim 1 and in the specification as originally filed at paragraph [0005] and paragraphs [0073] thru [0076] of Applicants' U.S. Published Application No. 2009/0246755 (corresponding to

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page 3, lines 4-19 and pages 34 line 21 thru page 37 line 4 of Applicants' specification/translation filed May 31, 2006).

Specifically, claim 6 has been amended to include the recitation in cancelled independent claim. Further, each of independent claims 6-20 have been amended to recite the culturing of *a first sample* of a gene-disrupted strain of a yeast in the presence of a test specimen and then culturing *a second sample*, then comparing the cell response of the first sample with the cell response of the second sample to confirm *the presence of the chemical in the test specimen*. Claim 2 has been amended to depend from amended independent claim 6.

The methodology recited now in independent claims 6-20 is inherent in claims 1 and 7-20, as previously presented. In particular, the "index" recited in the claims as originally filed is the result of comparison of culturing a first sample with the chemical and a sample without the chemical and comparing the cell response in order to compile an "index" of cell responses. Consequently, the amendments to claims 6-20 merely clarify the recitation of these claims in order to comply with 35 U.S.C. § 112. In other words, Applicants assert that no new issues are raised by the amendments to claims 6-20.

Applicants believe that the claims now comply with 35 U.S.C. §112. Withdrawal of the rejections is respectfully requested.

Rejections - 35 U.S.C. § 102 – Claims 1, 2 & 21-23

On page 3 of the Office Action, claims 1-4 and 21-23 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Published Application No. 2001/0031724 (hereinafter the "Roemer et al publication"). In response, Applicants have canceled claims 1, 21 and 22, and amended dependent claim 2-4 and 23 to depend from allowable independent claim 6.

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Applicants respectfully request withdrawal of the rejections.

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 2-4, 6-20 and 23 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

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